

# MEMORANDUM

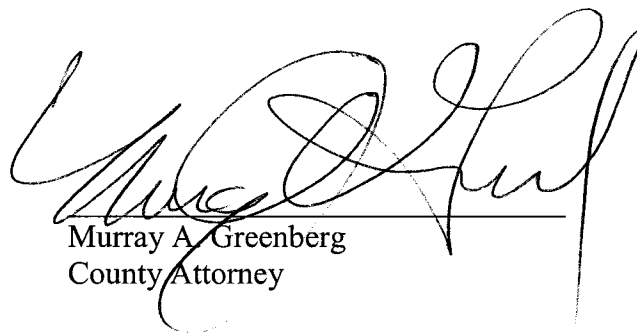
Agenda Item No. 7 (C)

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<b>TO:</b>	Honorable Chairman Bruno A. Barreiro and Members, Board of County Commissioners	<b>DATE:</b>	(Second Reading 03-06-07) December 5, 2006
<b>FROM:</b>	Murray A. Greenberg County Attorney	<b>SUBJECT:</b>	Ordinance amending Section 12-23 of the Code pertaining to initiative, referendum and recall petitions; disqualification of noncomplying petitions

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The accompanying ordinance was prepared and placed on the agenda at the request of Commissioner Jose "Pepe" Diaz.



Murray A. Greenberg  
County Attorney

MAG/bw

# Memorandum



**Date:** March 6, 2007

**To:** Honorable Chairman Bruno A. Barreiro  
and Members, Board of County Commissioners

**From:** George M. Borges  
County Manager

**Subject:** Ordinance pertaining to initiative, referendum and recall petitions

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The ordinance amending Section 12-23 of the Code of Miami-Dade County pertaining to initiative, referendum and recall petitions will not have a fiscal impact to Miami-Dade County.

*Colinne Brody*  
for Alina T. Hudak  
Assistant County Manager

Fiscal00206



# MEMORANDUM

(Revised)

**TO:** Honorable Chairman Bruno A. Barreiro  
and Members, Board of County Commissioners

**DATE:** March 6, 2007

**FROM:** Murray A. Greenberg  
County Attorney

**SUBJECT:** Agenda Item No. 7(C)

Please note any items checked.

\_\_\_\_\_ **"4-Day Rule" ("3-Day Rule" for committees) applicable if raised**

\_\_\_\_\_ **6 weeks required between first reading and public hearing**

\_\_\_\_\_ **4 weeks notification to municipal officials required prior to public hearing**

\_\_\_\_\_ **Decreases revenues or increases expenditures without balancing budget**

\_\_\_\_\_ **Budget required**

\_\_\_\_\_ **Statement of fiscal impact required**

\_\_\_\_\_ **Bid waiver requiring County Manager's written recommendation**

\_\_\_\_\_ **Ordinance creating a new board requires detailed County Manager's report for public hearing**

\_\_\_\_\_ **Housekeeping item (no policy decision required)**

\_\_\_\_\_ **No committee review**

Approved \_\_\_\_\_ Mayor  
Veto \_\_\_\_\_  
Override \_\_\_\_\_

Agenda Item No. 7 (C)  
03-06-07

ORDINANCE NO. \_\_\_\_\_

ORDINANCE AMENDING SECTION 12-23 OF THE CODE OF  
MIAMI-DADE COUNTY, FLORIDA RELATING TO  
INITIATIVE, REFERENDUM AND RECALL PETITIONS;  
PROVIDING SEVERABILITY, INCLUSION IN THE CODE,  
AND AN EFFECTIVE DATE

**WHEREAS**, Article 7 of the Miami Dade County Home Rule Charter provides procedures for initiative, referendum, and recall; and

**WHEREAS**, although the Florida courts have held these provisions to be self-executing, the courts have also stated that the legislative acts pertaining to these provisions shall be allowed when necessary to ensure ballot integrity; and

**WHEREAS**, this Board desires to eliminate the potential for any voter fraud in the gathering of signatures on petitions for initiative, referendum, and recall by making certain that all petitions are capable of being understood by English, Spanish, and Creole speaking electors; and

**WHEREAS**, the Supervisor of Elections has access to Florida's voter registration records which provide a name, address and sample signature for each elector in Miami-Dade County; and

**WHEREAS**, this Board recognizes that by requiring all petition circulators to be registered electors of Miami-Dade County, the integrity of the initiative process is enhanced by providing greater accountability for circulators who will become identifiable through voter registration records should there be a question as to the validity of the signatures collected,

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY  
COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA:**

Section 1. Section 12-23 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:<sup>1</sup>

**Sec 12-23. Initiative, referendum and recall petitions-  
Verification of signatures; disqualification of  
noncomplying petitions.**

>>(1) No person may circulate a petition or solicit signatures unless he or she is a registered elector in Miami-Dade County.<<

[[~~(4)~~]] >>(2)<< *Form of Petition.* All petitions for initiative, referendum, and recall submitted pursuant to Article 7 of the Miami-Dade County Home Rule Charter shall be in a format determined by the Supervisor of Elections; providing, however, each petition shall contain the following information:

- A. A statement in each petition circulator's own handwriting, setting forth his or her own name, both in printed and signature form.
- B. The residence address of the circulator.
- C. Dates between which all the signatures on each individual petition were obtained.
- D. A sworn statement that the circulator personally circulated the petition, witnessed each signature as it was being written and that to the best information and belief of the circulator, each signature is the genuine signature of the person whose name it purports to be.
- E. A sworn statement signed by the circulator certifying to the truthfulness and the correctness of the certificate set forth in Section (1)(D) hereof; stating that it is being given under penalty of perjury under the laws of the State of Florida; and setting forth the date and the place of execution of the certification.
- >>F. Any individual who knowingly signs more than one petition or who attempts to sign another person's name, or a fictitious name shall be deemed to have violated F.S. § 104.185, and in addition shall be guilty of a misdemeanor in the second degree.

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<sup>1</sup> Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

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G. The title and text in English, Spanish, and Creole of the ordinance or the Charter provision sought to be enacted or repealed.<<

[[~~(2)~~]]>>(3)<<*Disqualification of Forms.* Within fifteen (15) days, excluding weekends and legal holidays, of the date of filing a petition of initiative or referendum, the Supervisor of Elections, or in the case of recall, the Clerk of the Circuit Court, shall disqualify the following petition forms:

- A. Those that do not include >>in English, Spanish, and Creole,<< the title and text of the ordinance or the Charter provision sought to be enacted or repealed.
- B. Those that do not comply with any one or more of the provisions relating to the circulator set forth in Section (1) hereof.
- C. Those where the notary failed to comply with the provisions of F.S. § 117.05, requiring the notary to certify that to the best of his or her knowledge he or she knows the circulator or has seen documentary evidence to substantiate the authenticity of the circulator.
- D. Those where the notary is the same person as the circulator.
- E. Those where the signatures of the circulator or notary are dated earlier than the dates on which the electors signed the petition.

[[~~(3)~~]]>>(4)<<*Disqualification of Signatures.* The Supervisor of Elections in the case of the initiative or referendum, or the Clerk of the Circuit Court in the case of recall, shall disqualify the following signatures:

- A. Those signatures that are not accompanied by a residence address or precinct number of the voter.
- B. Those signatures that are illegible.
- C. Those signatures not dated.
- D. Those signatures representing persons who were not registered voters in Miami-Dade County on the date they signed the petition.
- E. The second and any additional signatures of an otherwise eligible voter.
- F. Those signatures that appear different to the extent that it cannot be determined that the person signing the petition and the person who is registered to vote are one and the same.

Section 2. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 3. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 4. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as  
to form and legal sufficiency:

Prepared by:

Murray A. Greenberg

Sponsored by Commissioner Jose "Pepe" Diaz

A handwritten signature in black ink, appearing to read 'Murray A. Greenberg', is written over a rectangular box.